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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|-------------|----------------------|---------------------|------------------|
| 10/552,989 | 02/05/2007 | Kohei Nagayama | 00684.109158. | 2484 |
| 5514 7590 10/12/2010 FITZPATRICK CELLA HARPER & SCINTO 1290 Avenue of the Americas NEW YORK, NY 10104-3800 | | | | |
| EXAMINER | | | | |
| BRAY, STEPHEN A | | | | |
| ART UNIT | | PAPER NUMBER | | |
| 2629 | | | | |
| MAIL DATE | | DELIVERY MODE | | |
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

**Advisory Action
Before the Filing of an Appeal Brief**

Application No.

10/552,989

Applicant(s)

NAGAYAMA, KOHEI

Examiner

STEPHEN A. BRAY

Art Unit

2629

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 17 September 2010 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.
Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☒ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☒ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☒ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: _____.
Claim(s) objected to: _____.
Claim(s) rejected: 1, 3-7.
Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See Continuation Sheet.
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). _____.
13. ☒ Other: See Continuation Sheet.

/Amr Awad/
Supervisory Patent Examiner, Art Unit 2629

Continuation of 11. does NOT place the application in condition for allowance because: Regarding the Applicant's argument on Page 4, line 9 through Page 5, line 16 that it would not have been obvious to combine Endo (WO 2004/044647) and Ikeda et al (US 6,741,385), the Examiner respectfully disagrees. Page 13, lines 23-27 of Endo discloses providing an insulating layer over the first electrode or the second electrode in order to prevent the injection of charges in the electrophoretic particles. Column 6, lines 34-42 of Ikeda et al '385 discloses forming an insulating layer over both of a first electrode 5a and a second electrode 5b to prevent the injection of electric charges into the electrophoretic particles. Therefore it would have been obvious that the teachings of Ikeda et al '385 could be added to the teachings of Endo in order to form an electrophoretic display in which the injection of electric charges into the electrophoretic particles can be further prevented by covering both of the electrodes with an insulating layer.

Regarding the Applicant's argument on Page 5, lines 17-21, that Ikeda et al (US 6,741,385) doesn't teach having the insulating layer electrically connect the first electrode and the second electrode, the Examiner respectfully disagrees. Column 6, lines 34-42 of Ikeda et al '385 discloses having an insulating layer formed to cover a first electrode 5A and a second electrode 5B, to prevent electric charge from being injected into the electrophoretic particles. It is well known in the art that electrically insulating materials are highly resistive. Therefore the insulating layer can be considered to be a resistance layer which has a high resistance value. It is also inherent that if the insulating layer formed covers both electrodes 5a and 5b, that an electrical connection will be formed between the two electrodes, even if it is a weak electrical connection. Figure 1 and Page 10, lines 7-10 of Endo discloses forming a second electrode 4 on the surface of the partition wall 7. Therefore Figure 1 and Page 9, line 10 through Page 10, line 18 of Endo teaches forming a container consisting of a substrate 1 containing a first electrode 3, and a partition wall 7 containing a second electrode 4, where said container contains a liquid layer consisting of electrophoretic particles 6 contained in a dispersion medium 5. The Examiner is to give each claim its broadest reasonable interpretation consistent with the specification. Therefore Ikeda et al '385 discloses forming an insulating layer which electrically connects a first electrode and a second electrode together, within the container disclosed by Endo. Therefore Endo in view of Ikeda et al '385 teaches the subject matter of Claim 1.

Continuation of 13. Other: The Applicant deleting the phrase "light transmissive" from the phrase "a light transmissive sealing plate" in line 3 of Claim 1 is an amendment which broadens the scope of Claim 1, which would require further consideration by the Examiner. Therefore the amendments to the claims by the Applicant will not be entered.